REMARKS

The Office Action dated March 23, 2006 has been received and carefully considered. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

Claims 1-20 are currently pending in this application.

I. INDEFINITE REJECTION OF CLAIM 19

Claim 19 has been rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. Specifically, the Office asserts that "claim refers to a 'method' of parent claim(s), which not define a 'method." *See* Office Action at page 2. Claim 19 has been amended to specify a "system" as defined by the parent claim(s). In view of the forgoing, Applicants respectfully submit that claim 19, as amended, is clear and definite and therefore request that the rejection be withdrawn.

II. OBVIOUS-TYPE DOUBLE PATENTING REJECTION OF CLAIMS 1-20

Claims 1-20 were rejected under the judicially-created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-14 of U.S. Patent No. 6,704,723 to Alavi et al. Although Applicants respectfully disagree with the Office's assertions, in order to expedite prosecution, a terminal disclaimer is hereby filed with this response. Accordingly, Applicants respectfully request that the double patenting rejection be withdrawn.

III. THE OBVIOUSNESS REJECTION OF CLAIMS 1-20

Claims 1-20 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,429,979 to Livingston et al. ("Livingston") in view of U.S. Patent No.

6,408,292 to Bakalash et al. ("Bakalash"). The rejection for these claims is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Also, as stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Further, as stated in MPEP § 2143.03, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). That is, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970).

A. Livingston fails to teach or suggest all of the claimed limitations

Regarding independent claims 1 and 11, the Office asserts that, among other things, Livingston discloses a method and system for exchanging information over a computer network comprising the steps of: receiving, into at least one network server computer system, a query request from at least one client computer system over a computer net work (See Livingston et al. Fig. 7); formatting the query request into an extensible markup language query (i.e. XML) document according to an extensible markup language document application program interface (See Livingston et al. col. 6, lines 9-33); transmitting the extensible markup language query document to at least one business intelligence server computer system; receiving, into the at least one business intelligence (i.e. EAM) server computer system, the extensible markup language query document (See Livingston et al. col. 6, lines 9-33); and retrieving information requested in the extensible markup language query document from at least on data storage (See Livingston et al. col. 6, lines 9-33). *See* Office Action at p. 7.

Applicants respectfully submit, however, that Livingston does not teach or suggest many of the recited features and functionalities of independent claims 1 and 11, including but not limited to the specific recitations set forth above. For example, Livingston does not disclose any feature or functionality comprising "**formatting the query request into an extensible markup language query document according to an extensible markup language document application program interface; transmitting the extensible markup language query document to at least one business intelligence server computer system; receiving, into the at least one business intelligence server computer system, the extensible markup language query document; and retrieving information requested in the extensible markup language query document from at least one data storage device**", as expressly recited in claim 1.

Livingston also does not disclose any feature or functionality comprising "**at least one network server computer system formatting the query request into an extensible markup language query document according to an extensible markup language document application program interface; at least one business intelligence server computer system for receiving the extensible markup language query document from the at least one network server computer system; and at least one data storage device for storing information requested in the extensible markup language query document, wherein the at least one business intelligence server computer system retrieves the information requested in the extensible markup language query document from the at least one data storage device**", as expressly recited in claim 11. Rather, Livingston – as evidenced by the excerpt relied upon by the Office – discloses:

> The EAM uses XML ***to assemble the units of information*** about the technical architecture into meaningful documents. XML markup includes the attributes ***describing the units of information*** in the database. Applications processing the XML data can then present a subset of those units by ***matching the attributes*** with the need expressed by the user. For example, if the user indicates that he wants more detail about a certain topic, XML enables the ***logical assembly of the more detailed set of information***. XML also contains the information used by cascading style sheets or other formatting templates for on-screen presentation, printing or other presentation media.
>
> The EAM ***organizes and classifies the units of information*** along several dimensions to enable greater customization. These dimensions provide a way to distinguish units of information in important ways, such as by content type, time and level of detail. The dimensions help to add context to the information that is presented. Each dimension contains a range of points--for example, the level-of-detail dimension will contain high-level, mid-level, and low-level as points while the content type dimension can include management, development and technical as points. Every unit of information stored in the EAM is described by a point for every dimension, thus providing a mechanism of organizing the units of information.
>
> The EAM uses both database design characteristics and XML ***to organize information*** according to a minimum of two dimensions tagged as attributes

> where many more than two dimensions are possible. For each dimension, the database contains a column that stores a value assigned to the units of information. For example, if a dimension is "time," then each unit of information has a value (e.g., current-present, tactical-mid-term, strategic-long-term) stored in the database that describes it based on the attribute, time. As the user requests current, tactical, or strategic information, XML ***enables assembly*** of information that is specific to that time frame. As the user requests a change along a particular dimension (e.g., more detail, different time frame, etc.), XML ***enables assembly*** of a new set of information in response, that corresponds to the particular point of interest along that dimension. In particular, XML ***allows assembly*** of a new view of the same type of content (such as more detailed or different time frame) by re-navigating the XML object tree, without requiring a new request to query the database. Users can request information by specifying points along multiple dimensions--for example, a user can request current, highly-detailed information about the company's mainframe environment.

See Livingston at column 6, line 15 – column 7, line 2.

Specifically, Applicants respectfully submit that Livingston does not teach or suggest any feature or functionality comprising: **(1)** ***formatting*** **the query request into an extensible markup language query document according to an extensible markup language document application program interface, (2) at least one** ***business intelligence server computer system*****, and (2) retrieving information requested in the extensible markup language query document from** ***at least one data storage device*****.** Livingston makes no mention of formatting a query request into XML, using a business intelligence server computer system, or a data storage device. Rather, Livingston merely discloses a system and method where "mechanisms" such as XML, HTML, DHTML, CSS, and SQL Server are used for organization (col. 5, lines 46-55). This is distinguished from *formatting* the query request into an extensible markup language query document according to an extensible markup language document application program interface. Furthermore, Livingston does not teach or suggest a business intelligence server computer system that receives a *formatted* extensible markup language document. Instead, Livingston merely discloses an Enterprise Architectural Manager or EAM (col. 4, line 2) that separates and stores architectural content as "atomic" units (col. 4, lines 66-67), categorizes and contextualizes information (col. 5, lines 33-36), and provides customizations (col. 5, lines 3-45). In addition, Applicants further submit that the Office acknowledges that Livingston "does not specifically disclose device", referring to the at least one data storage device. *See* Office Action at page 7. Thus, Applicants respectfully submit that Livingston does not teach or suggest each and every specific recitation of claims 1 and 11. Accordingly, for at least this reason, Applicants respectfully submit that the obviousness rejection of claims 1 and 11 be withdrawn.

B. Bakalash also fails to teach or suggest all of the claimed limitations

Applicants respectfully submit that Bakalash fails to make up for the deficiencies of Livingston as discussed above. Furthermore, Bakalash does not even teach or suggest the "at least one data storage device", as alleged by the Office (emphasis added). *See* Office Action at page 7, citing Bakalash at col. 17, lines 1-43. Therefore, in view of the foregoing, Applicants respectfully request that the obviousness rejection of claims 1 and 11 be withdrawn.

C. Lack of motivation to combine Bakalash with Livingston

Further, Applicants respectfully submit that the Office Action does not present a proper motivation to combine the references to achieve the claimed systems and method, and thus has failed to set forth a *prima facie* case of obviousness. In particular, Applicants respectfully submit that the allegation that one of ordinary skill in the art would have "modified Livingston et al. by the teaching of Bakalash et al. because providing device allows improvements for accessing data elements within a multidimensional database (MDB) containing precompiled or pre-aggregated data and supported on a parallel computing platform during OLAP or like operations, which avoiding the shortcomings and drawbacks of prior art systems and methodologies" is not persuasive. *See* Office Action at p. 7-8. In fact, Applicants respectfully submit the alleged motivations discussed above are improperly based on **hindsight** from viewing the pending claims. First, the motivation cited by the Office does not pertain to the combination of Bakalash's alleged "storage device" with Livingston's invention. Rather, the Office's citation of the alleged motivation is actually directed to "avoiding the shortcomings and drawbacks" of prior art systems and methodologies pertaining to limitations in dynamically creating data aggregations or calculating business metrics that have not been precalculated and stored. *See* Bakalash at column 5, lines 20-37 (emphasis added). Even assuming that Bakalash's motivation is applicable, Livingston makes no suggestion that it would benefit from the teachings of Bakalash, specifically the use of a multidimensional database containing precompiled or pre-aggregated data supported on a parallel computing platform (col. 5, lines 31-37). For example, Bakalash is concerned with using modular-arithmetic based address data mapping (title; abstract) whereas Livingston is concerned with architectural structures and categorization. Therefore, Applicants respectfully submit that the combination of Livingston and Bakalash is unsupported in the cited references and the alleged motivation would not have been obvious to one of ordinary skill in the art at the time of the invention. For at least the reasons discussed above, the obviousness rejection is improper and should be withdrawn.

D. Dependent claims

Claims 2-10 and 12-20 are dependent upon independent claims 1 and 11. Thus, since independent claims 1 and 11 should be allowable for the reasons discussed above, claims 2-10, and 12-20 should also be allowable at least by virtue of their dependency on independent claims 1 and 11. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 6 recites *formatting* the extensible markup language query document to reference *a document* *type declaration, wherein the document type declaration is a set of rules defining the guidelines for the extensible markup language query document*. Applicant respectfully submits that none of the cited references, alone or in combination, teach or suggest the device of claim 1 having the step of formatting the extensible markup language query document to reference a document type declaration, wherein the document type declaration is a set of rules defining the guidelines for the extensible markup language query document. Additionally, claim 7 recites that *a copy of a document type declaration file* including the referenced document type declaration is *stored on the at least business intelligence server*. Applicant respectfully submits that none of the cited references, alone or in combination, teach or suggest the device of claim 1 wherein a copy of a document type declaration filed including the referenced document type declaration is stored on the at least business intelligence server.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1-20 be withdrawn.

IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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